

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AHMED SAEED,

Plaintiff,

v.

CITY OF FAIRFIELD, CALIFORNIA
POLICE DEPARTMENT, et al.,

Defendants.

No. 2:23-cv-00087-MCE-DB

ORDER

Presently before the Court is Plaintiff Ahmed Saeed's ("Plaintiff") Motion for Temporary Restraining Order ("TRO"), which seeks to enjoin Defendants from enforcing two recommendations that Plaintiff's business license for his store Smoke Shop N' More ("SNM") be revoked, and to reinstate said business license following a Notice of Revocation issued on September 9, 2022. See ECF No. 8 ("Pl.'s Mot."). For the following reasons, Plaintiff's Motion is DENIED.

The purpose of a temporary restraining order is to preserve the status quo pending the complete briefing and thorough consideration contemplated by full proceedings pursuant to a preliminary injunction. See Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cnty., 415 U.S. 423, 438–39 (1974) (temporary restraining orders "should be restricted to serving their underlying purpose of preserving the status quo and preventing irreparable

1 harm just so long as is necessary to hold a hearing, and no longer”); see also Reno Air
2 Racing Ass’n, Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006); Dunn v. Cate, No.
3 CIV 08-873-NVW, 2010 WL 1558562, at *1 (E.D. Cal. Apr. 19, 2010).

4 Issuance of a temporary restraining order, as a form of preliminary injunctive
5 relief, is an extraordinary remedy, and Plaintiff has the burden of proving the propriety of
6 such a remedy. See Mazurek v. Armstrong, 520 U.S. 968, 972 (1997). In general, the
7 showing required for a temporary restraining order and a preliminary injunction are the
8 same. See Stuhlberg Int’l Sales Co., Inc. v. John D. Brush & Co., Inc., 240 F.3d 832,
9 839 n.7 (9th Cir. 2001).

10 A plaintiff seeking a preliminary injunction must establish that he is (1) “likely to
11 succeed on the merits;” (2) “likely to suffer irreparable harm in the absence of preliminary
12 relief;” (3) “the balance of equities tips in his favor;” and (4) “an injunction is in the public
13 interest.” Winter v. Nat’l Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). “If a plaintiff fails
14 to meet its burden on any of the four requirements for injunctive relief, its request must
15 be denied.” Sierra Forest Legacy v. Rey, 691 F. Supp. 2d 1204, 1207 (E.D. Cal. 2010)
16 (citing Winter, 555 U.S. at 22). “In each case, courts ‘must balance the competing
17 claims of injury and must consider the effect on each party of the granting or withholding
18 of the requested relief.’” Winter, 555 U.S. at 24 (quoting Amoco Prod. Co. v. Vill. of
19 Gambell, Alaska, 480 U.S. 531, 542 (1987)). A district court should enter a preliminary
20 injunction only “upon a clear showing that the plaintiff is entitled to such relief.” Winter,
21 555 U.S. at 22 (citing Mazurek, 520 U.S. at 972).

22 Alternatively, under the so-called sliding scale approach, as long as the plaintiff
23 demonstrates the requisite likelihood of irreparable harm and shows that an injunction is
24 in the public interest, a preliminary injunction can still issue so long as serious questions
25 going to the merits are raised and the balance of hardships tips sharply in the plaintiffs’
26 favor. All. for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134–35 (9th Cir. 2011)
27 (concluding that the “serious questions” version of the sliding scale test for preliminary
28 injunctions remains viable after Winter).

1 Plaintiff is before this Court seeking a TRO—an order that by definition is intended
 2 to preserve the status quo. The status quo, however, is that Plaintiff lost his business
 3 license for SNM on September 9, 2022.¹ See ECF No. 8-6, at 1–4 (Notice of Revocation
 4 issued by the City Manager’s Office for Defendant City of Fairfield). What Plaintiff really
 5 seeks is an affirmative injunction directing that Defendants reinstate his business
 6 license. That relief on the current posture would be inappropriate for a number of
 7 reasons.

8 First, Plaintiff is seeking extraordinary mandatory injunctive relief on a truncated
 9 TRO timeframe. Plaintiff received the Notice of Revocation on September 9, 2022, but
 10 waited over three months to appeal the revocation to Defendant City of Fairfield on
 11 December 28, 2022.² See Kline Decl., ECF No. 8-3 ¶ 10. Furthermore, Plaintiff did not
 12 involve this Court until he filed his Complaint on January 15, 2023, and the present TRO
 13 two days later on January 17, 2023. For purposes of a TRO, Plaintiff has a burden of
 14 establishing not only irreparable injury but also a showing that said injury is imminent in
 15 nature. Caribbean Marine, 844 F.2d at 674. The months-long delays in seeking relief
 16 from either Defendants or this Court compel the conclusion that Plaintiff has not made
 17 that showing.

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20 ¹ It is unclear from the pleadings whether Plaintiff’s business license was revoked or whether
 21 Defendants are threatening to revoke it. Compare, e.g., ECF No. 8-6, at 1–4 (Notice of Revocation issued
 22 September 9, 2022), with Saeed Decl., ECF No. 8-2 ¶ 12 (stating that Plaintiff is “facing financial
 23 catastrophe if [his] license is terminated on” the day the TRO was filed). If Plaintiff’s position is the latter, it
 24 is well-settled that speculative injury does not constitute irreparable harm. See Caribbean Marine Serv.
Co., Inc. v. Baldridge, 844 F.2d 668, 674 (9th Cir. 1988). Either way, the Court’s reasoning in denying the
 present Motion remains the same. Given that Plaintiff is the one moving for such an extraordinary remedy,
 it is his responsibility to adequately and explicitly state the exact relief he seeks and failing to do so will
 weigh against a finding of injunctive relief.


25 ² According to the Notice of Revocation, Plaintiff “may appeal this revocation to the City Council by
 26 filing a notice of appeal with the City of Fairfield within fifteen days of the date of this letter . . . describ[ing]
 27 the reason why the decision of the City of Fairfield should be reversed or modified.” ECF No. 8-6, at 4.
 28 When an appeal is filed, the city council “shall fix a time and place for hearing such appeal and the City of
 Fairfield shall give notice in writing to [Plaintiff] of the time and place of the hearing.” Id. Plaintiff has not
 provided any evidence or indication that the city council denied his appeal or that a hearing has taken
 place. The Court finds it would be premature to issue the requested injunctive relief in this case before the
 conclusion of the appeal process set forth in the Notice of Revocation.

1 Second, the Court does not find that Plaintiff has demonstrated irreparable harm.
2 Plaintiff alleges that he has incurred over \$85,000 in attorneys' fees and costs, has lost
3 \$488 per day in revenue, and has suffered reputational harm. See Pl.'s Mot., at 5–7;
4 Saeed Decl., ECF No. 8-2 ¶¶ 5, 7, 9–10, 12. However, Plaintiff provides no reason why
5 a legal remedy, namely monetary damages, would be inadequate to compensate him for
6 these alleged injuries especially since they are examples of harm where monetary
7 remedies are generally found to be appropriate. Ultimately, Plaintiff has not alleged any
8 specialized injury or irreparable harm that would warrant the emergency mandatory
9 injunctive relief he seeks.

10 Given all of the foregoing, it would be wholly inappropriate for the Court to grant
11 Plaintiff the extraordinary relief requested. This Court will not grant injunctive relief when
12 there are legal or monetary remedies available to Plaintiff. Accordingly, Plaintiff's Motion
13 for TRO, ECF No. 8, is DENIED without prejudice.

14 IT IS SO ORDERED.

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16 DATED: January 18, 2023

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18 MORRISON C. ENGLAND, JR.
19 SENIOR UNITED STATES DISTRICT JUDGE
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